

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

CURTIS L. BYRD, JR.,

Plaintiff,

VS .

UNITED STATES, et al.,

Defendants.

No. 05-2099-B/P

ORDER OF DISMISSAL

On December 22, 2005, this Court issued an order directing the plaintiff, within twenty days, to show cause why his claims against the Defendants should not be dismissed for failure to effect service. Plaintiff's response to the order to show cause was due by January 11, 2006, and plaintiff has failed to respond to that order.

Absent a showing of good cause to justify a failure to effect timely service, the Fed. R. of Civ. P. 4(m) mandates dismissal. See Byrd v. Stone, 94 F.3d 217, 219 (6th Cir. 1996); Moncrief v. Stone, 961 F.2d 595, 596 (6th Cir. 1992). Plaintiff has failed to demonstrate good cause for his failure to effect service on the defendants. Furthermore, the December 22, 2005 order advised the plaintiff that "[f]ailure to respond to this order or to show good cause will result in the dismissal of this complaint." This action has been pending since February 4, 2005, and service has not been

effected on any defendant. Accordingly, this action is DISMISSED without prejudice, pursuant to Fed. R. Civ. P. 41(b), for failure to prosecute.

IT IS SO ORDERED this 31st day of January, 2006.

s/ J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE